HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.2715 of 2002

Dated: 11th day of July, 2007

Between:

Jagtial Municipality,
Rep. by its Commissioner,
Karimnagar District ..
Petitioner

And

Govt. of A.P., rep. by its
Principal Secretary,
Municipal Administration and Urban
Development Department,
Secretariat, Hyderabad
and two others ..
Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the respondents in not implementing G.O.Ms.No.101, dated 11.2.2000, as arbitrary and illegal, and consequently direct the respondents to pay arrears of Rs.45,36,237/- towards charges for repairing roads.

The petitioner-Municipality asserts that on its permission, the respondents dug roads in the Jagitial town, laid cables and gave 2000 telephone connections to customers, and in the process, the roads were badly damaged. According to G.O.Ms.No.101, dated 11.2.2000, all the Commissioners of Municipal Corporations and Municipalities/Nagar Panchayats are directed to collect road cutting charges. Later, the petitioner-Municipality sent a letter, dated 16.12.2000 and also a legal notice dated 8.12.2001 to the respondents asking them to pay road cutting charges. Now, the petitioner's grievance is that though the respondents damaged the roads during the process of laying cables, they have not reimbursed the amount of Rs.45,36,237/- to the petitioner for causing damage to the municipal roads which is in utter violation of the terms of G.O.Ms.No.101.

The 2nd and 3rd respondents have filed counter affidavit stating that new rates are applicable only after the year 1999 as mentioned in G.O.Ms.No.101 whereas, the petitioner's claim relates to the works that were completed by December, 1998. It is also stated that the claim

made by the Commissioner is a new one as per the revised rates of the year 2000 which is arbitrary and unbearable. The cost of the damaged roads was finalized by the then Commissioner and a final cheque was also given in pursuance of the finalization of the claim. So, when the petitioner's claim for reimbursement relating to the works carried out by the respondent was already settled and final payment was also made, the question of further claim will not arise.

In fact, in the light of the averments made in this counter, this Court is of the view that the relief sought for cannot be granted. However, as the respondents have not responded to the letter dated 16.12.2000 addressed by the petitioner, the respondents are directed to reply to it assigning the reasons as to why the same cannot be complied with.

With the above observation, this writ petition is disposed of. No costs.

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11.07.2007

bcj